

ESPIRIDION FERNANDEZ, J-13648,	)	
	)	
Petitioner,	)	No. C 11-0082 CRB (PR)
	)	
vs.	)	ORDER OF DISMISSAL
	)	
DOMINGO URIBE, Warden, et al.,	)	
	)	
Respondent(s).	)	

The petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 U.S.C. § 1983. Although the Supreme Court has not addressed whether a challenge to a condition of confinement may be brought under habeas, see Bell v. Wolfish, 441 U.S. 520, 526 n.6 (1979), the Ninth Circuit has held that habeas jurisdiction is absent, and a § 1983 action proper, where, as here, a successful challenge to a prison condition will not necessarily shorten the prisoner's sentence. Ramirez v. Galaza, 334 F.3d 850, 859 (9th Cir. 2003). In addition, the preferred practice in the Ninth Circuit has

1 been that challenges to conditions of confinement be brought in a civil rights  
2 complaint. See Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights  
3 action is proper method of challenging conditions of confinement); Crawford v.  
4 Bell, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming dismissal of habeas  
5 petition on basis that challenges to terms and conditions of confinement must be  
6 brought in civil rights complaint).

7 The clerk shall send petitioner a prisoner civil rights complaint form, enter  
8 judgment in accordance with this order, terminate all pending motions as moot,  
9 and close the file.

10 SO ORDERED.

11 DATED: Jan. 18, 2011

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13 CHARLES R. BREYER  
14 United States District Judge  
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